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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/679,692	10/04/2000	Glenn Reid	004860.P2475	9006
8791 7590 05/14/2008 BLAKELY SOKOLOFF TAYLOR & ZAFMAN 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040				
EXAMINER				
TRAN, MYLINH T				
ART UNIT		PAPER NUMBER		
2179				
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05/14/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/679,692

**Applicant(s)**

REID ET AL.

**Examiner**

MYLINH TRAN

**Art Unit**

2179

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 4, 6, 7, 9, 12, 14, 15, 17, 20, 22, 23, 25, 28, 30, 31 and 33-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 6-7, 9, 12, 14-15, 17, 20, 22-23, 25, 28, 30-31, 33-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_



### **DETAILED ACTION**

Applicant's Amendment filed 05/05/08 has been entered and carefully considered. Claims 1, 9, 17, 25, 37, 41 and 45 have been amended. Claims 49-53 have been added. However, the limitations of the amended claims have not been found to be patentable over prior art of record, therefore, claims (1, 4, 6, 7, 9, 12, 14, 15, 17, 20, 22-23, 25, 28, 30, 31 and 33-53) have not been found to be patentable over newly discovered prior art, therefore, these claims are rejected under the new ground of rejection as set forth below.

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 17, 20, 22-23 and 41-44 are rejected under 35 U.S.C. 101 because the claimed invention appears to be directed to non-statutory subject matter. The claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, functional descriptive material per se.

#### ***Claim Rejections - 35 USC § 102***

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4, 6, 7, 9, 12, 14, 15, 17, 20, 22-23, 25, 28, 30, 31 and 33-53 are rejected under 35 U.S.C. 102(e) as being anticipated by Foreman et al. [US. 6,628,303].

**As per claims 1, 9, 17, 25, 37, 38, 41, 42, 45, and 46,** Foreman et al. teaches a computer implemented method and corresponding system for producing a graphical user interface, comprising the steps/means: storing a graphic file created by a multi-layered type computer program (column 2, lines 8-12, "a graphical user interface for a computer motion video editing system which has a single window interface including a plurality of alternatively selectable interfaces", the single window interface is considered as "the multi-layered type computer program"), the graphic file containing a list of control objects (column 2, lines 12-25, the list of control objects is contained in a first, a second, a third and a fourth of the plurality of selectable interfaces), wherein each control

object is in at least one layer (column 2, lines 12-25, "the first interface is considered as a first layer, the second interface is considered as a second layer and so on...), dictates at least one attribute of a control element and is editable by a user (column 2, lines 12-25, "A first of the plurality of selectable interfaces is an interface for making capturing commands available to a user for receiving motion video information to be edited");

creating an application program other than the multi-layered type computer program to access the graphic file and to display a control element from the graphic file on the graphical user interface (column 1, line 60 through column 2, line 25), the control element having at least one attribute dictated by one of the control objects in the at least one layer of the graphic file (column 2, lines 30-34, "each selectable interface has a video region for previewing the motion video program being edited and wherein the video region in each of the selectable interfaces is at an identical position within the single window interface") each control object independently editable relative to a different control object (column 2, lines 5-35, each of the interface located in a different layer has different video information to be edited. Video information of the first interface is independently edited to video information of the second interface)

**As per claims 4, 12, 20, 28, 39, 43, and 47,** Foreman et al. teach the at least one layer of the first control object being grouped with the other layers in the graphic file (column 2, lines 8-35).

**As per claim 6, 14, 22, and 30**, Foreman et al. disclose the control element being an edit control to manipulate a time-based stream of information (column 8, line 62 through column 9, line 19).

**As per claims 7, 15, 23, and 31**, Foreman et al. teach the at least one attribute being at least one of an appearance and location and or size and element type and state and function and behavior in a particular environment (column 11, lines 32-45).

**As per claims 33-36, 40, 44, and 48**, Foreman et al. teach the layers being linked (column 2, lines 8-25).

**As to claim 49**, Foreman et al. teach the application program displaying the control objects and allowing the control objects to be edited using the application program to change the control element attribute as dictated by the editing of the control objects (column 2, line 5-25).

**As to claim 50**, Foreman et al. teach allowing the control objects to be edited comprising allowing use of the application program to independently change the control objects to cause the corresponding attribute of the control element to change (column 11, lines 32-45).

**As to claim 51**, Foreman et al. teach the multi-layered type computer program comprising a graphics editor; and the control object comprising a picture-related control object embodied in an image page and depicting a control element as the element would appear on the graphical user interface or comprising a textual description of an attribute of a control element listed on a layer list page (column 11, lines 32-45).

**As to claim 52**, Foreman et al. teach the control objects may be edited by adding deleting, or changing the control object to revise the control elements of the graphical user interface without converting the graphical user interface to an intermediate format or recompiling the graphical user interface (column 11, lines 3-45) and the control elements have at least one of an appearance of an element, a location of an element, a size of an element, a type of a graphical user interface environment, a state of a graphical user interface environment, function of a graphical user interface environment or a behavior of a graphical user interface environment dictated by the control objects (column 8, line 62 through column 9, line 19).

**As to claim 53**, Foreman et al. teach editing a control object causes a control element to be edited (column 2, lines 5-35).

### **Response to Arguments**

Applicant's arguments with respect to claims 1, 9, 17, 25, 37, 41 and 45 have been considered but are moot in view of the new ground of rejection.

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mylinh Tran. The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM at 571-272-4141.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo, can be reached at 571-272-4847.

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

571-273-8300

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mylinh Tran

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/Weilun Lo/

Supervisory Patent Examiner, Art Unit 2179